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8

9 The Honorable Thomas O. Rice

10

11 IN THE UNITED STATES DISTRICT COURT
12 FOR THE EASTERN DISTRICT OF WASHINGTON

13 TRAVIS JAY WISE, CHELSEIE
14 BYROADS, ANDILEE JORDAN,
15 DANIEL BETZ, DAVID
16 CHARBONNEAU, CHERYL
17 BERNARD, DESIRAE KING, JERRY
18 LEASE, JORDAN LOZARO,
19 LAURECE RUST, MARY DRASS,
20 NADIA FEDOROVA, TERRY DUNN,
RITA WALDO, LEVI HINES,
CHRISTOPHER MOORE, SHELLEY
ENGLE, JACOB WOLFE, GRANT
RODKEY, THOMAS FORSYTH, and
TRAVIS YEAGER, on behalf of
themselves and those similarly situated,

21 Plaintiffs,
22
23 vs.
24 GOVERNOR JAY INSLEE, IN HIS
25 OFFICIAL CAPACITY; DONALD
CLINTSMAN, IN HIS OFFICIAL
26 CAPACITY AS THE SECRETARY

CASE NO. 2:21-cv-00288-TOR
DEFENDANT BRIAN SCHAEFFER'S ANSWER TO PLAINTIFFS' AMENDED COMPLAINT

DEFENDANT BRIAN SCHAEFFER'S ANSWER TO PLAINTIFFS' AMENDED COMPLAINT - 1

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1 OF DEPARTMENT OF SOCIAL AND
2 HEALTH SERVICES; CHIEF BRIAN
3 SCHAEFFER, IN HIS OFFICIAL
4 CAPACITY AS THE CHIEF OF THE
5 SPOKANE FIRE DEPARTMENT;
6 CHIEF JOHN BATISTE, IN HIS
7 OFFICIAL CAPACITY AS THE
8 CHIEF OF THE WASHINGTON
9 STATE PATROL; AND ROGER
10 MILLAR, IN HIS OFFICIAL
CAPACITY AS SECRETARY OF
WASHINGTON STATE
DEPARTMENT OF
TRANSPORTATION,

11 Defendants.

13 Defendant Chief of the City of Spokane Fire Department Brian Schaeffer
14 answers Plaintiffs' Amended Complaint (ECF No. 26) as follows:

16 **I. INTRODUCTION**

17 1.1 Answering paragraph 1.1 of the Amended Complaint, Defendant is
18 without sufficient information or belief to know the truth or falsity of the allegations
19 regarding Plaintiffs who are and/or were not employed with the City of Spokane
20 ("City") and therefore denies the same. With respect to Plaintiffs Travis Wise,
21 Daniel Betz and Jerry Lease, Defendant denies the same.
22
23

1.2 Answering paragraph 1.2 of the Amended Complaint, Defendant is without sufficient information or belief to know the truth or falsity of the allegations, and therefore denies the same.

II. PARTIES AND JURISDICTION

A. Subject matter jurisdiction

2.1 Answering paragraph 2.1 of the Amended Complaint, Defendant admits this lawsuit was brought pursuant to 28 U.S.C. 1331. By way of further response, Defendant denies there is supplemental jurisdiction pursuant to 28 U.S.C. 1367. Except as so answered, Defendant is without sufficient information or belief to know the truth or falsity of the allegations, and therefore denies the same.

B. Venue

2.2 Answering paragraph 2.2 of the Amended Complaint, Defendant admits venue is proper. Except as so admitted, Defendant is without sufficient information or belief to know the truth or falsity of the allegations, and therefore denies the same.

C. Personal jurisdiction

2.3 Answering paragraph 2.3 of the Amended Complaint, Defendant is without sufficient information to know the truth or falsity of the allegations, and therefore denies the same.

1 2.3.1 Answering paragraph 2.3.1 of the Amended Complaint, Defendant
2 admits Defendant Jay Inslee, is the Governor of Washington and Plaintiffs purport to
3 bring this lawsuit against Governor Inslee in his official capacity and only for
4 equitable relief, not for damages, with ancillary attorney fees if available. Except as
5 so answered, Defendant denies the remaining allegations of Paragraph 2.3.1.
6

7 2.3.2 Answering paragraph 2.3.2 of the Amended Complaint, Defendant
8 admits Plaintiffs purport to file suit against the City “only to the extent it is not an
9 “arm of the state” for purposes of 42 U.S.C. 1983.” Except as so answered,
10 Defendant denies the remaining allegations of Paragraph 2.3.2.
11

12 2.3.3 Answering paragraph 2.3.3 of the Amended Complaint, Defendant
13 denies the same.
14

15 2.3.4 Answering paragraph 2.3.4 of the Amended Complaint, Defendant
16 is without sufficient information or belief to know the truth or falsity of the
17 allegations, and therefore denies the same.
18

19 2.3.5 Answering paragraph 2.3.5 of the Amended Complaint, Defendant
20 is without sufficient information or belief to know the truth or falsity of the
21 allegations, and therefore denies the same.
22

1 2.3.6 Answering paragraph 2.3.6 of the Amended Complaint, Defendant
2 is without sufficient information or belief to know the truth or falsity of the
3 allegations, and therefore denies the same.
4

5 2.4 Answering paragraph 2.4 of the Amended Complaint, Defendant respond
6 that the paragraph states a legal conclusion to which no response is required. To the
7 extent a response is required, Defendant admits that the Plaintiffs' complaint should
8 not violate the Eleventh Amendment of the U.S. Constitution. Defendant denies any
9 remaining allegations.
10

11 2.5 Answering paragraph 2.5 of the Amended Complaint, Defendant is
12 without sufficient information or belief to know the truth or falsity of the allegations,
13 and therefore denies the same.¹
14

15 2.5.2 Answering paragraph 2.5.2 of the Amended Complaint,
16 Defendant admits the same.
17

18 2.5.3 Answering paragraph 2.5.3 of the Amended Complaint,
19 Defendant admits the same.
20

21 2.5.4 Answering paragraph 2.5.4 of the Amended Complaint,
22 Defendant admits the same.
23
24
25

26 ¹ Paragraph 2.5.1 is missing from Plaintiffs' Amended Complaint.

1 2.5.5 Answering paragraph 2.5.5 of the Amended Complaint,

2 Defendant is without sufficient information or belief to know the truth or falsity of
3 the allegations, and therefore denies the same.
4

5 2.5.6 Answering paragraph 2.5.6 of the Amended Complaint,

6 Defendant is without sufficient information or belief to know the truth or falsity of
7 the allegations, and therefore denies the same.
8

9 2.5.7 Answering paragraph 2.5.7 of the Amended Complaint, Defendant

10 is without sufficient information or belief to know the truth or falsity of the
11 allegations, and therefore denies the same.
12

13 2.5.8 Answering paragraph 2.5.8 of the Amended Complaint,

14 Defendant is without sufficient information or belief to know the truth or falsity of
15 the allegations, and therefore denies the same.
16

17 2.5.9 Answering paragraph 2.5.9 of the Amended Complaint, Defendant

18 is without sufficient information or belief to know the truth or falsity of the
19 allegations, and therefore denies the same.
20

21 2.5.10 Answering paragraph 2.5.10 of the Amended Complaint,

22 Defendant is without sufficient information or belief to know the truth or falsity of
23 the allegations, and therefore denies the same.
24

1 2.5.11 Answering paragraph 2.5.11 of the Amended Complaint,
2 Defendant is without sufficient information or belief to know the truth or falsity of
3 the allegations, and therefore denies the same.
4

5 2.5.12 Answering paragraph 2.5.12 of the Amended Complaint,
6 Defendant is without sufficient information or belief to know the truth or falsity of
7 the allegations, and therefore denies the same.
8

9 2.5.13 Answering paragraph 2.5.13 of the Amended Complaint,
10 Defendant is without sufficient information or belief to know the truth or falsity of
11 the allegations, and therefore denies the same.
12

13 2.5.14 Answering paragraph 2.5.14 of the Amended Complaint,
14 Defendant is without sufficient information or belief to know the truth or falsity of
15 the allegations, and therefore denies the same.
16

17 2.5.15 Answering paragraph 2.5.15 of the Amended Complaint,
18 Defendant is without sufficient information or belief to know the truth or falsity of
19 the allegations, and therefore denies the same.
20

21 2.5.16 Answering paragraph 2.5.16 of the Amended Complaint,
22 Defendant is without sufficient information or belief to know the truth or falsity of
23 the allegations, and therefore denies the same.
24

1 2.5.17 Answering paragraph 2.5.17 of the Amended Complaint,
2 Defendant is without sufficient information or belief to know the truth or falsity of
3 the allegations, and therefore denies the same.
4

5 2.5.18 Answering paragraph 2.5.18 of the Amended Complaint,
6 Defendant is without sufficient information or belief to know the truth or falsity of
7 the allegations, and therefore denies the same.
8

9 2.5.19 Answering paragraph 2.5.19 of the Amended Complaint,
10 Defendant is without sufficient information or belief to know the truth or falsity of
11 the allegations, and therefore denies the same.
12

13 2.5.20 Answering paragraph 2.5.20 of the Amended Complaint,
14 Defendant is without sufficient information or belief to know the truth or falsity of
15 the allegations, and therefore denies the same.
16

17 2.5.21 Answering paragraph 2.5.21 of the Amended Complaint,
18 Defendant is without sufficient information or belief to know the truth or falsity of
19 the allegations, and therefore denies the same.
20

21 2.5.22 Answering paragraph 2.5.22 of the Amended Complaint,
22 Defendant is without sufficient information or belief to know the truth or falsity of
23 the allegations, and therefore denies the same.
24

2.5.23 Answering paragraph 2.5.23 of the Amended Complaint,

Defendant is without sufficient information or belief to know the truth or falsity of the allegations, and therefore denies the same.

III. FACTS

3.1 Answering paragraph 3.1 of the Amended Complaint, Defendant admits the Proclamation was issued on September 27, 2021. By way of further answer, Defendant avers that the Proclamation speaks for itself.

3.2 Answering paragraph 3.2 of the Complaint, Defendant avers that the Proclamation speaks for itself.

3.3 Answering paragraph 3.3 of the Complaint, Defendant denies the same.

3.4 Answering paragraph 3.4 of the Complaint, Defendant is without sufficient information or belief to know the truth or falsity of the allegations, and therefore denies the same

3.5 Answering paragraph 3.5 of the Complaint, Defendant is without sufficient information or belief to know the truth or falsity of the allegations, and therefore denies the same.

3.6 Answering paragraph 3.6 of the Complaint, Defendant is without sufficient information or belief to know the truth or falsity of the allegations, and therefore denies the same.

1 3.7 Answering paragraph 3.7 of the Complaint, Defendant is without
2 sufficient information or belief to know the truth or falsity of the allegations, and
3 therefore denies the same.
4

5 3.8 Answering paragraph 3.8 of the Complaint, Defendant is without
6 sufficient information or belief to know the truth or falsity of the allegations, and
7 therefore denies the same.
8

9 3.9 Answering paragraph 3.9 of the Amended Complaint, Defendant is
10 without sufficient information or belief to know the truth or falsity of the allegations,
11 and therefore denies the same.
12

13 3.10 Answering paragraph 3.10 of the Amended Complaint, Defendant is
14 without sufficient information or belief to know the truth or falsity of the allegations,
15 and therefore denies the same.
16

17 3.11 Answering paragraph 3.11 of the Amended Complaint, Defendant is
18 without sufficient information or belief to know the truth or falsity of the allegations,
19 and therefore denies the same.
20

21 3.12 Answering paragraph 3.12 of the Amended Complaint, Defendant is
22 without sufficient information or belief to know the truth or falsity of the allegations,
23 and therefore denies the same.
24

1 3.13 Answering paragraph 3.13 of the Amended Complaint, Defendant is
2 without sufficient information or belief to know the truth or falsity of the allegations,
3 and therefore denies the same.
4

5 3.14 Answering paragraph 3.14 of the Amended Complaint, Defendant is
6 without sufficient information or belief to know the truth or falsity of the allegations
7 and therefore denies the same.
8

9 3.15 Answering paragraph 3.15 of the Amended Complaint, Defendant is
10 without sufficient information or belief to know the truth or falsity of the allegations,
11 and therefore denies the same.
12

13 3.16 Answering paragraph 3.16 of the Amended Complaint, Defendant is
14 without sufficient information or belief to know the truth or falsity of the allegations,
15 and therefore denies the same.
16

17 3.17 Answering paragraph 3.17 of the Amended Complaint, Defendant is
18 without sufficient information or belief to know the truth or falsity of the allegations,
19 and therefore denies the same.
20

21 3.18 Answering paragraph 3.18 of the Amended Complaint, Defendant is
22 without sufficient information or belief to know the truth or falsity of the allegations,
23 and therefore denies the same.
24

1 3.19 Answering paragraph 3.19 of the Amended Complaint, Defendant is
2 without sufficient information or belief to know the truth or falsity of the allegations,
3 and therefore denies the same.
4

5 3.20 Answering paragraph 3.20 of the Amended Complaint, Defendant is
6 without sufficient information or belief to know the truth or falsity of the allegations,
7 and therefore denies the same.
8

9 3.21 Answering paragraph 3.21 of the Amended Complaint, Defendant is
10 without sufficient information to know the truth or falsity of the allegations, and
11 therefore denies the same.
12

13 3.22 Answering paragraph 3.22 of the Amended Complaint, Defendant is
14 without sufficient information to know the truth or falsity of the allegations, and
15 therefore denies the same.
16

17 3.23 Answering paragraph 3.23 of the Amended Complaint, Defendant avers
18 the September 23, 2021 letter speaks for itself.
19

20 3.24 Answering paragraph 3.24 of the Amended Complaint, Defendant avers
21 the September 23, 2021 letter speaks for itself.
22

23 3.25 Answering paragraph 3.25 of the Amended Complaint, Defendant avers
24 the September 23, 2021 letter speaks for itself.
25
26

1 3.26 Answering paragraph 3.26 of the Amended Complaint, Defendant avers
2 the September 23, 2021 letter speaks for itself.

3 3.27 Answering paragraph 3.27 of the Complaint, Defendant admits they
4 offered several accommodations to include, job reassignment, essential function
5 layoff, paid leave, leave of absence without pay, resignation, retirement and a non-
6 disciplinary separation. Except as so answered, Defendant denies the same.

7 3.28 Answering paragraph 3.28 of the Amended Complaint, Defendant is
8 without sufficient information or belief to know the truth or falsity of the allegations,
9 and therefore denies the same.

10 3.29 Answering paragraph 3.29 of the Amended Complaint, Defendant is
11 without sufficient information or belief to know the truth or falsity of the allegations,
12 and therefore denies the same.

13 3.30 Answering paragraph 3.29 of the Amended Complaint, Defendant is
14 without sufficient information or belief to know the truth or falsity of the allegations,
15 and therefore denies the same.

16 3.31 Answering paragraph 3.30 of the Amended Complaint, Defendant is
17 without sufficient information to know the truth or falsity of the allegations, and
18 therefore denies the same.

1 3.32 Answering paragraph 3.31 of the Amended Complaint, Defendant is
2 without sufficient information to know the truth or falsity of the allegations, and
3 therefore denies the same.
4

5 3.33 Answering paragraph 3.32 of the Amended Complaint, Defendant is
6 without sufficient information to know the truth or falsity of the allegations, and
7 therefore denies the same.
8

9 3.34 Answering paragraph 3.34 of the Amended Complaint, Defendant is
10 without sufficient information to know the truth or falsity of the allegations, and
11 therefore denies the same.
12

13 3.35 Answering paragraph 3.35 of the Amended Complaint, Defendant is
14 without sufficient information to know the truth or falsity of the allegations, and
15 therefore denies the same.
16

17 3.36 Answering paragraph 3.36 of the Amended Complaint, Defendant is
18 without sufficient information to know the truth or falsity of the allegations, and
19 therefore denies the same.
20

21 3.37 Answering paragraph 3.37 of the Amended Complaint, Defendant is
22 without sufficient information to know the truth or falsity of the allegations, and
23 therefore denies the same.
24

1 3.38 Answering paragraph 3.38 of the Amended Complaint, Defendant is
2 without sufficient information to know the truth or falsity of the allegations, and
3 therefore denies the same.
4

5 3.39 Answering paragraph 3.39 of the Amended Complaint, Defendant is
6 without sufficient information to know the truth or falsity of the allegations, and
7 therefore denies the same.
8

9 3.40 Answering paragraph 3.40 of the Amended Complaint, Defendant is
10 without sufficient information to know the truth or falsity of the allegations, and
11 therefore denies the same.
12

13 3.41 Answering paragraph 3.41 of the Amended Complaint, Defendant is
14 without sufficient information to know the truth or falsity of the allegations, and
15 therefore denies the same.
16

17 3.42 Answering paragraph 3.42 of the Amended Complaint, Defendant is
18 without sufficient information or belief to know the truth or falsity of the allegations,
19 and therefore denies the same.
20

21 3.43 Answering paragraph 3.43 of the Amended Complaint, Defendant is
22 without sufficient information or belief to know the truth or falsity of the allegations,
23 and therefore denies the same.
24

1 3.44 Answering paragraph 3.44 of the Amended Complaint, Defendant is
2 without sufficient information or belief to know the truth or falsity of the allegations,
3 and therefore denies the same.
4

5 3.45 Answering paragraph 3.45 of the Amended Complaint, Defendant is
6 without sufficient information or belief to know the truth or falsity of the allegations,
7 and therefore denies the same.
8

9 3.46 Answering paragraph 3.46 of the Amended Complaint, Defendant is
10 without sufficient information to know the truth or falsity of the allegations, and
11 therefore denies the same.
12

13 3.47 Answering paragraph 3.47 of the Amended Complaint, Defendant is
14 without sufficient information or belief to know the truth or falsity of the allegations,
15 and therefore denies the same.
16

17 3.48 Answering paragraph 3.48 of the Amended Complaint, Defendant is
18 without sufficient information or belief to know the truth or falsity of the allegations,
19 and therefore denies the same.
20

21 3.49 Answering paragraph 3.49 of the Amended Complaint, Defendant is
22 without sufficient information to know the truth or falsity of the allegations, and
23 therefore denies the same.
24

3.50 Answering paragraph 3.50 of the Amended Complaint, Defendant is without sufficient information to know the truth or falsity of the allegations, and therefore denies the same.

IV. FIRST CAUSE OF ACTION

Injunctive Relief Against Governor Inslee; Damages Where Proved Against Non-State Defendants

Violation of 42 U.S.C. 1983

4.1 Answering paragraph 4.1 of the Amended Complaint, Defendant reallege and incorporate herein by reference all previous responses and denials to the allegations of the Amended Complaint.

4.2 Answering paragraph 4.2 of the Amended Complaint, Defendant avers that the allegation state a legal conclusion to which no response is required. By way of further answer, Defendant denies the allegations.

4.3 Answering paragraph 4.3 of the Amended Complaint, Defendant denies the same.

4.4 Answering paragraph 4.4 of the Amended Complaint, Defendant denies the same

V SECOND CAUSE OF ACTION

Governor's Proclamation Is Ultra Vires and Void, Without Legal Effect: Injunctive Relief Sought

A. Wrongful Delegation of Legislative Powers and Improper Execution of Emergency Powers

1 5.1 Answering paragraph 5.1 of the Amended Complaint, Defendant reallege
2 and incorporate herein by reference its responses and denials to the allegations of the
3 Amended Complaint.
4

5 5.2 Answering paragraph 5.2 of the Amended Complaint, Defendant respond
6 that this cause of action is not directed at Defendant and therefore no response is
7 required. To the extent a response is required, Defendant avers the Constitution
8 speaks for itself.
9

10 5.3 Answering paragraph 5.3 of the Amended Complaint, Defendant respond
11 that this cause of action is not directed at Defendant and therefore no response is
12 required. Defendant further respond that this allegation states a legal conclusion to
13 which no response is required. To the extent a response is required, Defendant denies
14 the same.
15
16

17 5.4 Answering paragraph 5.4 of the Amended Complaint, Defendant respond
18 that this cause of action is not directed at Defendant and therefore no response is
19 required. Defendant further respond that this allegation states a legal conclusion to
20 which no response is required. Except as so answered, Defendant denies the
21 allegations of paragraph 5.4.
22
23

24 5.5 Answering paragraph 5.5 of the Amended Complaint, Defendant respond
25 that this cause of action is not directed at Defendant and therefore no response is
26

1 required. Defendant further respond that this allegation states a legal conclusion to
2 which no response is required. Except as so answered, Defendant denies the
3 allegations of paragraph 5.5.
4

5 5.6 Answering paragraph 5.6 of the Amended Complaint, Defendant respond
6 that this cause of action is not directed at Defendant and therefore no response is
7 required. Defendant further respond that this allegation states a legal conclusion to
8 which no response is required. Except as so answered, Defendant denies the
9 allegations of paragraph 5.6.

10 5.7 Answering paragraph 5.7 of the Amended Complaint, Defendant respond
11 that this cause of action is not directed at Defendant and therefore no response is
12 required. Defendant further respond that this allegation states a legal conclusion to
13 which no response is required. Except as so answered, Defendant denies the
14 allegations of paragraph 5.7.

15 5.8 Answering paragraph 5.8 of the Amended Complaint, Defendant respond
16 that this cause of action is not directed at Defendant and therefore no response is
17 required. Defendant further respond that this allegation states a legal conclusion to
18 which no response is required. Except as so answered, Defendant denies the
19 allegations of paragraph 5.8.

1 5.9 Answering paragraph 5.9 of the Amended Complaint, Defendant respond
2 that this cause of action is not directed at Defendant and therefore no response is
3 required. Defendant further respond that this allegation states a legal conclusion to
4 which no response is required. Except as so answered, Defendant denies the
5 allegations of paragraph 5.9.

6
7 5.10 Answering paragraph 5.10 of the Amended Complaint, Defendant
8 respond that this cause of action is not directed at Defendant and therefore no
9 response is required. To the extent a response is required, Defendant denies the
10 allegations of paragraph 5.10.

11
12 5.11 Answering paragraph 5.11 of the Amended Complaint, Defendant avers
13 that the allegations state legal conclusions to which no response is required. To the
14 extent a response is required, Defendant denies the allegations of paragraph 5.11.

15
16 5.12 Answering paragraph 5.12 of the Amended Complaint, Defendant avers
17 that the allegations state legal conclusions to which no response is required. To the
18 extent a response is required, Defendant denies the allegations of paragraph 5.12.

19
20 **VI. THIRD CAUSE OF ACTION**

21
22 **Deprivation of Religious Freedom, U.S. CONST., Amend. I, WASH. CONST.
23 Art. I, Sec. 11 and the Equal Protection Clause of the 14th Amendment
24 to the Federal Constitution
25 (Declaratory and Injunctive Relief)**

26 6.1 Answering paragraph 6.1, Defendant reallege and incorporate by
reference herein its responses and denials to each of the allegations.

1 6.2 Answering paragraph 6.2, Defendant avers the allegations state legal
2 conclusions to which no response is required. Except as so answered, Defendant
3 denies the allegations of paragraph 6.2
4

5 6.3 Answering paragraph 6.3, Defendant avers the allegations include legal
6 conclusions to which no response is required. By way of further answer, Defendant
7 denies the allegations of paragraph 6.3.
8

9 6.4 Answering paragraph 6.4, Defendant avers the allegations include legal
10 conclusions to which no response is required. By way of further answer, Defendant
11 denies the allegations of paragraph 6.4
12

13 6.5 Answering paragraph 6.5 of the Amended Complaint, Defendant avers the
14 allegations include legal conclusions to which no response is required. To the extent
15 a response is required, Defendant denies the same.
16

17 6.6 Answering paragraph 6.6 of the Amended Complaint, Defendant avers the
18 allegations include legal conclusions to which no response is required. To the extent
19 a response is required, Defendant denies the same.
20

21 6.7 Answering paragraph 6.7 of the Amended Complaint, Defendant denies
22 the same.
23

24 6.8 Answering paragraph 6.8 of the Amended Complaint, Defendant denies
25 the same.
26

Jacobson Ostensibly Forbids Enforcement

6.9 Answering paragraph 6.9 of the Amended Complaint, Defendant admits
“preservation of public health is one of the most compelling state interests that exist.”
Except as so answered, Defendant denies the remaining allegations of paragraph 6.9

6.10 Answering paragraph 6.10 of the Amended Complaint, Defendant avers that the allegations state legal conclusions to which no response is required. By way of further answer, Defendant denies the allegations of paragraph 6.10.

6.11 Answering paragraph 6.11 of the Amended Complaint, Defendant avers that the allegations state legal conclusions to which no response is required. By way of further answer, Defendant denies the allegations of paragraph 6.11.

6.12 Answering paragraph 6.12 of the Amended Complaint, Defendant avers that the allegations state legal conclusions to which no response is required. By way of further answer, Defendant denies the allegations of paragraph 6.12.

6.13 Answering paragraph 6.13, Defendant denies the same.

VII. FOURTH CAUSE OF ACTION

Procedural Due Process

7.1 Answering paragraph 7.1, Defendant avers that the allegations state legal conclusions to which no response is required. By way of further answer, Defendant denies the allegations.

1 7.2 Answering paragraph 7.2, Defendant avers that the allegations state legal
2 conclusions to which no response is required. By way of further answer, Defendant
3 denies the allegations.
4

5 7.3 Answering paragraph 7.3 of the Amended Complaint, Defendant denies
6 the same.
7

8 7.4 Answering paragraph 7.4 of the Amended Complaint, Defendant denies
9 the same.
10

VIII. FIFTH CAUSE OF ACTION

Substantive Due Process

11 8.1 Answering paragraph 8.1 of the Amended Complaint, Defendant avers
12 that the allegations state legal conclusions to which no response is required. By way
13 of further answer, Defendant denies the same.
14

15 8.2 Answering paragraph 8.2 of the Amended Complaint, Defendant avers
16 that the allegations state legal conclusions to which no response is required. By way
17 of further answer, Defendant denies the same.
18

19 8.3 Answering paragraph 8.4 of the Amended Complaint, Defendant avers
20 that the allegations state legal conclusions to which no response is required. By way
21 of further answer, Defendant denies the same.
22

23 8.4 Answering paragraph 8.4 of the Amended Complaint, Defendant denies
24 the same.
25

8.5 Answering paragraph 8.5 of the Amended Complaint, Defendant denies the same.

8.6 Answering paragraph 8.6 of the Amended Complaint, Defendant denies the same.

IX. SIXTH CAUSE OF ACTION

Taking and Violations of the Contracts Clause

Taking Property Without Just Compensation

9.1 Answering paragraph 9.1 of the Amended Complaint, Defendant avers that the allegations state legal conclusions to which no response is required. By way of further answer, Defendant denies the same.

9.2 Answering paragraph 9.2 of the Amended Complaint, Defendant avers that the allegations state legal conclusions to which no response is required. By way of further answer, Defendant denies the same.

9.3 Answering paragraph 9.3 of the Amended Complaint, Defendant avers that the allegations state legal conclusions to which no response is required. By way of further answer, Defendant denies the same.

9.4 Answering paragraph 9.4 of the Amended Complaint, Defendant denies the same.

1 9.5 Answering paragraph 9.5 of the Amended Complaint, Defendant denies
2 the same.

3 *Threats to Terminate State Employees Without Unemployment Benefits Constitute*
4 *a Violation of the Equal Protection, Due Process, and Contracts Clauses*

5 9.6 Answering paragraph 9.6 of the Amended Complaint, Defendant avers
6 that this paragraph is not directed to Defendant and therefore no response is required.
7 Defendant further respond that the allegations state legal conclusions to which no
8 response is required. Except as otherwise answered, Defendant denies the allegations
9 of paragraph 9.6.

10 9.7 Answering paragraph 9.7 of the Amended Complaint, Defendant avers
11 that the allegations state legal conclusions to which no response is required.
12 Defendant further respond that the allegations state legal conclusions to which no
13 response is required. Except as otherwise answered, Defendant denies the allegations
14 of paragraph 9.7.

15 9.8 Answering paragraph 9.8 of the Amended Complaint, Defendant avers
16 that the allegations state legal conclusions to which no response is required.
17 Defendant further respond that the allegations state legal conclusions to which no
18 response is required. Except as otherwise answered, Defendant denies the allegations
19 of paragraph 9.8.

1 9.9 Answering paragraph 9.9 of the Amended Complaint, Defendant avers
2 that the allegations state legal conclusions to which no response is required.
3 Defendant further respond that the allegations state legal conclusions to which no
4 response is required. Except as otherwise answered, Defendant denies the allegations
5 of paragraph 9.9.

6
7 9.10 Answering paragraph 9.10 of the Amended Complaint, Defendant avers
8 that the allegations state legal conclusions to which no response is required.
9 Defendant further respond that the allegations state legal conclusions to which no
10 response is required. Except as otherwise answered, Defendant denies the allegations
11 of paragraph 9.10.

12
13 **X. SEVENTH CAUSE OF ACTION**

14
15 **Americans with Disabilities Act (ADA)**

16
17 10.1 Answering paragraph 10.1 of the Amended Complaint, Defendant avers
18 that the allegations state legal conclusions to which no response is required. By way
19 of further answer, Defendant denies the same.

20
21 10.2 Answering paragraph 10.2 of the Amended Complaint, Defendant avers
22 that the allegations state legal conclusions to which no response is required. By way
23 of further answer, Defendant denies the same.

1 10.3 Answering paragraph 10.3 of the Amended Complaint, Defendant avers
2 that the allegations state legal conclusions to which no response is required. By way
3 of further answer, Defendant denies the same.
4

5 10.4 Answering paragraph 10.4 of the Amended Complaint, Defendant avers
6 that the allegations state legal conclusions to which no response is required. By way
7 of further answer, Defendant denies the same.
8

9 10.5 Answering paragraph 10.5 of the Amended Complaint, Defendant avers
10 that the allegations state legal conclusions to which no response is required. By way
11 of further answer, Defendant denies the same.
12

13 10.6 Answering paragraph 10.6 of the Amended Complaint, Defendant avers
14 that the allegations state legal conclusions to which no response is required. By way
15 of further answer, Defendant denies the same.
16

17 10.7 Answering paragraph 10.7 of the Amended Complaint, Defendant avers
18 that the allegations state legal conclusions to which no response is required. By way
19 of further answer, Defendant denies the same.
20

21 10.8 Answering paragraph 10.8 of the Amended Complaint, Defendant avers
22 that the allegations state legal conclusions to which no response is required. By way
23 of further answer, Defendant denies the same.
24

1 10.9 Answering paragraph 10.9 of the Amended Complaint, Defendant avers
2 that the allegations state legal conclusions to which no response is required. By way
3 of further answer, Defendant denies the same.
4

5 10.10 Answering paragraph 10.10 of the Amended Complaint, Defendant
6 avers that the allegations state legal conclusions to which no response is required. By
7 way of further answer, Defendant denies the same.
8

9 10.11 Answering paragraph 10.11 of the Amended Complaint, Defendant
10 avers that the allegations state legal conclusions to which no response is required. By
11 way of further answer, Defendant denies the same.
12

13 10.12 Answering paragraph 10.12 of the Amended Complaint, Defendant
14 avers that the allegations state legal conclusions to which no response is required. By
15 way of further answer, Defendant denies the same.
16

17 10.13 Answering paragraph 10.13 of the Amended Complaint, Defendant
18 avers that the allegations state legal conclusions to which no response is required. By
19 way of further answer, Defendant denies the same.
20

21 10.14 Answering paragraph 10.14 of the Amended Complaint, Defendant
22 avers that the allegations state legal conclusions to which no response is required. By
23 way of further answer, Defendant denies the same.
24

1 10.15 Answering paragraph 10.15 of the Amended Complaint, Defendant
2 avers that the allegations state legal conclusions to which no response is required. By
3 way of further answer, Defendant denies the same.
4

5 10.16 Answering paragraph 10.16, Defendant denies the same.
6
7

8 **XI. EIGHTH CAUSE OF ACTION**

9 **Violation of the Washington Law Against Discrimination (WLAD)**

10 11.1 Answering paragraph 11.1 of the Amended Complaint, Defendant
11 reallege and incorporate by reference herein its responses and denials to the
12 allegations.
13

14 11.2 Answering paragraph 11.2 of the Amended Complaint, Defendant avers
15 that the allegations state legal conclusions to which no response is required. By way
16 of further answer, Defendant denies the same.
17

18 11.3 Answering paragraph 11.3 of the Amended Complaint, Defendant avers
19 that the allegations state legal conclusions to which no response is required. By way
20 of further answer, Defendant denies the same.
21

22 11.4 Answering paragraph 11.4 of the Amended Complaint, Defendant avers
23 that the allegations state legal conclusions to which no response is required. By way
24 of further answer, Defendant denies the same.
25

1 11.5 Answering paragraph 11.5 of the Amended Complaint, Defendant avers
2 that the allegations state legal conclusions to which no response is required. By way
3 of further answer, Defendant denies the same.
4

5 11.6 Answering paragraph 11.6 of the Amended Complaint, Defendant avers
6 that the allegations state legal conclusions to which no response is required. By way
7 of further answer, Defendant denies the same.
8

9 11.7 Answering paragraph 11.7 of the Amended Complaint, Defendant avers
10 that the allegations state legal conclusions to which no response is required. By way
11 of further answer, Defendant denies the same.
12

13 11.8 Answering paragraph 11.8 of the Amended Complaint, Defendant denies
14 the same.
15

16 **XII. NINTH CAUSE OF ACTION**

17 **Cruel Punishment**

18 12.1 Answering paragraph 12.1 of the Amended Complaint, Defendant
19 reallege and incorporate herein by reference its answers and denials to the allegations.
20

21 12.2 Answering paragraph 12.2 of the Amended Complaint, Defendant avers
22 that this paragraph does not apply to Defendant and therefore no response is required.
23 Defendant further avers that the allegations state legal conclusions to which no
24 response is required. By way of further answer, Defendant denies the same.
25

1 12.3 Answering paragraph 12.3 of the Amended Complaint, Defendant avers
2 that this paragraph does not apply to Defendant and therefore no response is required.
3 Defendant further avers that the allegations state legal conclusions to which no
4 response is required. By way of further answer, Defendant denies the same.

5 12.4 Answering paragraph 12.4 of the Amended Complaint, Defendant avers
6 that this paragraph does not apply to Defendant and therefore no response is required.
7 Defendant further avers that the allegations state legal conclusions to which no
8 response is required. By way of further answer, Defendant denies the same.

9 12.5 Answering paragraph 12.5 of the Amended Complaint, Defendant avers
10 that this paragraph does not apply to Defendant and therefore no response is required.
11 Defendant further avers that the allegations state legal conclusions to which no
12 response is required. By way of further answer, Defendant denies the same.

13 12.6 Answering paragraph 12.6 of the Amended Complaint, Defendant avers
14 that this paragraph does not apply to Defendant and therefore no response is required.
15 Defendant further avers that the allegations state legal conclusions to which no
16 response is required. By way of further answer, Defendant denies the same.

XIII. TENTH CAUSE OF ACTION

Negligent Infliction of Emotional Distress

13.1 Answering paragraph 13.1 of the Amended Complaint, Defendant avers that the allegations state legal conclusions to which no response is required. By way of further answer, Defendant denies the same.

13.2 Answering paragraph 13.2 of the Amended Complaint, Defendant avers that the allegations state legal conclusions to which no response is required. By way of further answer, Defendant denies the same.

13.3 Answering paragraph 13.3 of the Amended Complaint, Defendant avers that the allegations state legal conclusions to which no response is required. By way of further answer, Defendant denies the same.

13.4 Answering paragraph 13.4 of the Amended Complaint, Defendant denies the same.

XIV. ELEVENTH CAUSE OF ACTION

Battery

14.1 Answering paragraph 14.1 of the Amended Complaint, Defendant
reallege and incorporate by reference its responses and denials to the allegations.

14.2 Answering paragraph 14.2 of the Amended Complaint, Defendant avers that the allegations state legal conclusions to which no response is required. By way of further answer, Defendant denies the same.

1 14.3 Answering paragraph 14.3 of the Amended Complaint, Defendant avers
2 that the allegations state legal conclusions to which no response is required. By way
3 of further answer, Defendant denies the same.
4

5 14.4 Answering paragraph 14.4 of the Amended Complaint, Defendant avers
6 that the allegations state legal conclusions to which no response is required. By way
7 of further answer, Defendant denies the same.
8

9 14.5 Answering paragraph 14.5 of the Amended Complaint, Defendant avers
10 that the allegations state legal conclusions to which no response is required. By way
11 of further answer, Defendant denies the same.
12

13 14.6 Answering paragraph 14.6 of the Amended Complaint, Defendant avers
14 that the allegations state legal conclusions to which no response is required. By way
15 of further answer, Defendant denies the same.
16

17 14.7 Answering paragraph 14.7 of the Amended Complaint, Defendant avers
18 that the allegations state legal conclusions to which no response is required. By way
19 of further answer, Defendant denies the same.
20

21 14.8 Answering paragraph 14.8 of the Amended Complaint, Defendant avers
22 that the allegations state legal conclusions to which no response is required. By way
23 of further answer, Defendant denies the same.
24

1 14.9 Answering paragraph 14.9 of the Amended Complaint, Defendant avers
2 that the allegations state legal conclusions to which no response is required. By way
3 of further answer, Defendant denies the same.
4

5 14.10 Answering paragraph 14.10 of the Amended Complaint, Defendant
6 avers that the allegations state legal conclusions to which no response is required. By
7 way of further answer, Defendant denies the same.
8

9 14.11 Answering paragraph 14.11 of the Amended Complaint, Defendant
10 avers that the allegations state legal conclusions to which no response is required. By
11 way of further answer, Defendant denies the same.
12

13 14.12 Answering paragraph 14.12 of the Amended Complaint, Defendant
14 avers that the allegations state legal conclusions to which no response is required. By
15 way of further answer, Defendant denies the same.
16

17 14.13 Answering paragraph 14.13 of the Amended Complaint, Defendant
18 avers that the allegations state legal conclusions to which no response is required. By
19 way of further answer, Defendant denies the same.
20

21 14.14 Answering paragraph 14.14 of the Amended Complaint, Defendant
22 avers that the allegations state legal conclusions to which no response is required. By
23 way of further answer, Defendant denies the same.
24

1 14.15 Answering paragraph 14.5 of the Amended Complaint, Defendant denies
2 the same.

3 14.16 Answering paragraph 14.16 of the Amended Complaint, Defendant
4 denies the same.

5 14.17 Answering paragraph 14.17 of the Amended Complaint, Defendant is
6 without sufficient information or belief regarding the vaccination status of all
7 plaintiffs and therefore denies the same. Except as so answered, Defendant denies the
8 remaining allegations of paragraph 14.17.

9 14.18 Answering paragraph 14.18 of the Amended Complaint, Defendant
10 denies the same.

11 14.19 Answering paragraph 14.19 of the Amended Complaint, Defendant
12 denies the same.

13 14.20 Answering paragraph 14.20 of the Amended Complaint, Defendant
14 denies the same.

15 14.21 Answering paragraph 14.21 of the Amended Complaint, Defendant
16 denies the same.

17 14.22 Answering paragraph 14.22 of the Amended Complaint, Defendant
18 denies the same.

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DEFENDANT BRIAN SCHAEFFER'S ANSWER TO
PLAINTIFFS' AMENDED COMPLAINT - 35

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14.23 Answering paragraph 14.23 of the Amended Complaint, Defendant denies the same.

14.24 Answering paragraph 14.24 of the Amended Complaint, Defendant denies the same.

XV. PLAINTIFFS' PRAYER FOR RELIEF

Defendant denies the allegations set forth in Plaintiffs' Prayer for Relief, including paragraphs 15.1 to 15.8.

XVI. AFFIRMATIVE DEFENSES

By way of further answer and as affirmative defenses, without admitting any matters previously denied, Defendant assert as follows:

1. Plaintiffs fail to state a claim upon which relief may be granted.
2. Plaintiffs failed to comply with the Notice of Tort Claim statute.
3. Plaintiffs failed to exhaust their administrative remedies.
4. Plaintiffs failed to mitigate their damages.
5. Plaintiffs' damages, if any, were caused by their own conduct and
ions.
6. Defendant is entitled to qualified immunity.
7. Plaintiffs lack standing.
8. Plaintiffs' claims are moot.

1 9. Plaintiffs' claims are unripe.

2 10. Plaintiffs' claims are barred by res judicata.

3 11. Plaintiffs' claims are barred by collateral estoppel.

4 12. Plaintiffs' claims are barred in whole or in part by the doctrines of
5 laches, waiver, unclean hands, accord and satisfaction, and/or ratification.

6 13. Plaintiffs' claims against the Defendant should be dismissed due to the
7 improper joinder of Defendant employers in this suit.

8 10. Defendant reserves the right to assert additional affirmative defenses,
9 counterclaims, and third-party claims as discovery progresses.

13 14. **XVII. PRAYER FOR RELIEF**

15 Wherefore, Defendant prays as follows:

16 A. For dismissal of Plaintiffs' claims, with prejudice;

17 B. For Rule 11 sanctions and recovery of attorneys' fees and costs to the
18 extent allowed under applicable law; and,

19 C. For such other and further relief as the Court may deem just and
20 equitable.

1 DATED this 31st day of January, 2022.

2 SUMMIT LAW GROUP, PLLC
3 Attorney for Defendant Brian Schaeffer

4 By s/ David H. Smith
5 Elizabeth R. Kennar, WSBA #25432
6 J. Chad Mitchell, WSBA #39689
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11 (206) 676-7000
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CERTIFICATE OF SERVICE

I hereby certify that on this day I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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1 *Attorneys for Defendants Governor Jay Inslee, Donald*
2 *Clintsman, John Batiste, and Roger Millar*

3 DATED this 31st day of January, 2022.

4 s/ *Denise Brandenstein*
5 Denise Brandenstein